



Harrisburg Ambulance Company, Owner, and Employee Indicted on Alleged Federal Medicare Fraud Charges

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 10:07 AM January 13, 2012

The Federal Bureau of Investigation (FBI) on January 12, 2012 released the following:

“The United States Attorney’s Office for the Middle District of Pennsylvania announced today that a Harrisburg-based ambulance company, its owner, and a managerial employee have been indicted by a grand jury in Harrisburg on federal health care fraud charges.

Advantage Medical Transport, Inc, headquartered at 733 Fire House Lane, Harrisburg, and its owner, Serge Sivchuk, age 26, also of Harrisburg, were charged in the indictment with 14 counts of health care fraud, one count of conspiracy, and 14 counts of false statements in health care matters. Advantage’s EMT and dispatcher supervisor, David Paul, age 42, of York, Pennsylvania, was also charged with conspiracy and 14 counts of false statements in health care matters.

According to U.S. Attorney Peter J. Smith, the indictment alleges that between January 2009 and June 2011 Advantage and Sivchuk devised and perpetrated a scheme to defraud Medicare out of at least \$1,000,000 by submitting hundreds of claims for the non-emergency transport of Medicare beneficiaries to and from dialysis treatment centers. The indictment alleges the claims were fraudulent because the patients were ambulatory and the ambulance transports were not medically necessary.

During 2010 Medicare paid Advantage \$166.64 plus \$5.49 per mile for each leg of a transport to and from a dialysis treatment center. Many dialysis patients underwent three treatments per week. Thus, one week’s transport of a dialysis patient could yield Advantage more than \$1,000.

The indictment focuses on an August 2010 pre-payment audit conducted by Medicare. Allegedly, of 40 claims audited, it was discovered Advantage and Sivchuk had submitted 14 re-written and forged ambulance “Trip Sheets” in support of the

claims. The Trip Sheets, which are prepared by Emergency Medical Technicians (EMTs) at the time of each transport, had been allegedly rewritten to omit references to the patients’ ability to walk, stand or otherwise ambulate. The patients’ vital signs (blood pressure, pulse, and respirations) on two Trip sheets were changed and the signatures of some of the EMTs were allegedly forged. The Indictment alleges Sivchuk and Paul directed Advantage’s EMTs to re-write the 14 Trip Sheets and to prepare many others in a manner that concealed the ambulatory nature of the patients.

The indictment alleges the EMTs were threatened with a reduction in hours or termination if they did not prepare the Trip Sheets as they were directed.

Each health care fraud count is punishable by up to 20 years’ imprisonment and \$1,000,000 fine. The conspiracy count and each false statement count is punishable by up to five years’ imprisonment and \$1,000,000 fine.

The indictment also seeks the criminal forfeiture of Sivchuk’s Farmcrest Lane, Harrisburg, Pennsylvania residence, Advantage’s business premises at 733 Fire House Lane, Harrisburg, \$860,972 in six Harrisburg area bank accounts controlled by Sivchuk, plus Sivchuk’s 2006 Bentley and 2010 Land Rover.

The indictment was the result of a federal investigation that began earlier this year with the execution of search warrant at Advantage’s business premises. During the search, voluminous records and documents were seized. At the same time the search warrant was executed, the U.S. Attorney’s Office filed a civil action in U.S. District Court in Harrisburg freezing more than \$936,000 in Advantage and Sivchuk controlled bank accounts.

The case is part of a priority program within the U.S. Department of Justice and the U.S. Attorney’s Office focusing on health care fraud. Anyone with information concerning suspected health care fraud should contact the FBI at 717-232-8686 or HHS at 1-800-HHS-TIPS. “You have to play by the rules if you want

to participate in the Medicare program,” said Nick DiGiulio, Special Agent in Charge of the Inspector General’s Office for the United States Department of Health and Human Services. “We will continue to energetically pursue allegations involving the theft of precious health care dollars.”

The case was investigated by the Harrisburg Offices of the FBI and the U.S. Department of Health & Human Services’ Office of Inspector General. It is being prosecuted by Assistant United States Attorney Kim Douglas Daniel.

An indictment or information is not evidence of guilt but simply a description of the charge made by the grand jury and/or United States Attorney against a defendant. A charged defendant is presumed innocent until a jury returns a unanimous finding that the United States has proven the defendant’s guilt beyond a reasonable doubt or until the defendant has pled guilty to the charges.”

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Law officials map out strategy to catch more fugitives

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 10:19 AM January 13, 2012

Chicago Tribune on January 12, 2012 released the following:

“Federal, state, local agencies vow to work more closely together

By David Jackson and Gary Marx, Chicago Tribune reporters

At a 90-minute closed-door meeting Thursday, top federal, state and local law enforcement officials laid out plans to improve the government’s faltering efforts to apprehend violent fugitives who cross U.S. borders to evade justice in Illinois.

The officials from the Justice Department and various northern Illinois agencies pledged to more closely coordinate their international fugitive apprehension programs, better manage their mounting caseloads and train local prosecutors and police in the often-complex and lengthy extradition process.

“There’s a feeling that this is a growing problem, an expensive problem and a large challenge to our system of justice,” said U.S. Sen. Dick Durbin, who convened the meeting and spoke to reporters afterward. “I think the response at the table was extremely positive at all levels.”

Attending the working session with Durbin were U.S. Deputy Attorney General James Cole — the No. 2 official in the Justice Department — as well as U.S. Attorney Patrick Fitzgerald, the Chicago heads of the FBI and the U.S. Marshals Service, and Timothy Williams, director of Interpol in Washington.

The local officials included Cook County Sheriff Tom Dart, the state’s attorneys from Cook, DuPage and Will counties, representatives from the Illinois attorney general’s office, the Chicago Police Department and the Illinois State Police.

Durbin called together those officials in response to a recent investigative series by the Chicago Tribune that found dangerous criminals were able to cross the border and remain at large because of an astonishing lack of coordination among

Justice Department officials, county prosecutors and local police; a failure by these agencies to keep track of their cases; and inexplicable, years-long delays.

After Thursday’s closed-door meeting, Durbin announced that Fitzgerald would train Illinois law enforcement agencies on the extradition system at three upcoming seminars in Chicago, Springfield and a third location outside Chicago.

Will County State’s Attorney James Glasgow later said through a spokesman that his office would “take full advantage” of the sessions and send “multiple attorneys.”

Durbin also urged county criminal court judges to set higher bonds for violent criminals who present flight risks — a weakness pointed out in the series.

And he endorsed a bill introduced by Illinois lawmakers that will make it possible to prosecute close family members for aiding or harboring a fugitive, another loophole highlighted by one article in the series. Prosecutors said the reform would help them locate fugitives and bring them to justice.

But Durbin did express frustration with significant hurdles that remain. Local prosecutors sometimes find it prohibitively expensive to prepare and translate the extensive legal paperwork needed to request a fugitive’s arrest and extradition from a foreign government. “We’re talking about thousands of dollars,” Durbin said.

Cook County State’s Attorney Anita Alvarez, who noted that her office has faced recent budget and staff cuts, added that “the cost that really is laid on local prosecutors is enormous.”

Another issue hampering extraditions is continued lack of cooperation between the lead federal investigative agencies: The U.S. Marshals Service is the primary investigative agency and handles about 60 percent of international fugitive pursuits, but the FBI also plays a major role, along with the Drug Enforcement Administration and other agencies. “It appears there is still some stovepipe

culture in the federal agencies,” Durbin said.

Dart said outside the meeting that Justice Department officials need to lay out clear directives showing local officials which of the myriad federal agencies they should deal with when they have evidence that a fugitive has crossed the border.

“Everybody needs to get their act together,” Dart said. Right now, he said, the sheriffs “can go to the FBI or the U.S. marshals — but there’s no rhyme or reason.”

While the officials at Thursday’s meeting focused on international fugitive apprehension problems in northern Illinois, Durbin noted afterward that a number of federal officials have told him there was a higher level of cooperation and effectiveness here than in many other parts of the country.

“Illinois is not the worst situation in the country,” Durbin said. “This is a challenge across the nation.”

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Former Dow Research Scientist Sentenced to 60 Months in Prison for Stealing Trade Secrets and Perjury

(USDOJ: Justice News)

Submitted at 10:14 AM January 13, 2012

A former research scientist was sentenced late yesterday to 60 months in prison for

stealing trade secrets from Dow Chemical Company and selling them to companies in the People’s Republic of China, as well as committing perjury.

Louisiana Health Care Company Owner and Recruiter Plead Guilty to Medicare Fraud Scheme

(USDOJ: Justice News)

Submitted at 11:26 AM January 13, 2012

Two Baton Rouge, La., residents have pleaded guilty for their role in a Medicare fraud scheme, which allegedly involved more than \$21 million.

Harris County Precinct One Constable Jack Abercia Indicted by a Houston Federal Grand Jury Along with Others

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 8:39 AM January 13, 2012

The U.S. Attorney's Office for the Southern District of Texas on January 12, 2012 released the following:

"Abercia Indicted

HOUSTON – Long-time Harris County Precinct One Constable Jack Abercia has been arrested along with his Chief Lieutenant Weldon Kenneth Wiener and Office Chief Michael Butler following the return of a 13-count federal indictment, United States Attorney Kenneth Magidson announced today along with FBI Special Agent in Charge Stephen L. Morris.

The sealed indictment was returned Tuesday, Jan. 10, 2012, and was unsealed in its entirety just minutes ago following the arrests of Abercia, 78, Wiener, 72, and Butler, 56, all of Houston.

The indictment charges the all three with conspiracy to violate various federal laws, and charges Abercia and Wiener with unlawfully accessing the National Crime Information Center (NCIC) database on multiple occasions for private financial gain. Abercia and Butler are also charged with bribery in connection with the hiring of an otherwise unqualified applicant for a deputy constable position in return for a cash bribe totaling \$5,000.

"Assistance from the public is often critical in these very important investigations," said Morris. "Anyone with information about potential wrongdoing by a public official is urged to contact the FBI."

All three are charged with conspiracy. Abercia and Wiener are charged in 11 counts alleging they accessed the NCIC

database or caused another to access it on 11 occasions without authority or in excess of official authority in return for private financial gain. Abercia and Wiener would, according to the indictment, solicit and accept cash bribes in return for having unauthorized criminal background checks run on prospective employees of various businesses. NCIC is restricted to genuine law enforcement purposes. Users must undergo training and screening, have passwords that are monitored and are instructed that the database is not to be used for non-law enforcement reasons nor beyond in the performance of their official duties. While the indictment charges 11 specific acts of unauthorized access or access in excess of official authority in November 2011, it also alleges the practice had been occurring in the office for a longer period of time.

The bribery charge in the final count of the indictment alleges Abercia and Butler hired an otherwise unqualified applicant to be a deputy constable in exchange for a \$5,000 cash payment. According to the indictment, Butler physically received the money, through an intermediary, and allegedly gave Abercia \$3,000, while keeping \$2,000 for himself.

All three men are expected to appear in federal court today before U.S. Magistrate Judge Mary Milloy.

If convicted of the conspiracy charge, all three face up to five years in prison. Abercia and Wiener will also face an additional five years in prison for each count of exceeding authorized computer access, while Abercia and Butler could also receive an additional 10 years in prison if convicted of the bribery charge.

All 13 counts also include a possible fine of \$250,000 and up to three years of supervised release on each count.

This case was investigated by the FBI Houston Law Enforcement/Border Corruption Task Force with special assistance from the Houston Police Department – Internal Affairs Division and the Texas Rangers and is being prosecuted by Assistant U.S. Attorney Michael Wynne.

An indictment is a formal accusation of criminal conduct, not evidence.

A defendant is presumed innocent unless convicted through due process of law."

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Hearing set in John Edwards' criminal case

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 9:41 AM January 13, 2012

Click2Houston.com on January 13, 2012 released the following:

"Edwards charged with conspiracy, violating campaign contribution laws

Author: By the CNN Wire Staff (CNN) -

Attorneys and a federal judge are expected to meet in a North Carolina courtroom Friday afternoon for a status hearing regarding the pending criminal trial of John Edwards, the former presidential candidate and U.S. senator.

The hearing comes after attorneys on both sides filed several motions, many of

them sealed from the public.

In December, attorneys for Edwards asked again to delay his criminal trial, saying Edwards had an unspecified medical issue.

Last year, the Justice Department charged Edwards with conspiracy, issuing false statements and violating campaign contribution laws. He has pleaded not guilty.

Last September, the trial was delayed until January 30 after Edwards' attorneys said he needed more time, in part due to his position as the sole caretaker of his two youngest children, ages 11 and 13, after his wife, Elizabeth, passed away in December 2010.

The motion to continue the trial for 60 days filed on December 22 said Edwards' "unexpected" medical issue is explained in a sealed exhibit. The issue will "prevent a trial of this matter during the January 2012 criminal term," according to the motion, and cannot be resolved before the end of the term.

Attorneys for Edwards, who was the Democratic vice-presidential nominee in 2004 alongside John Kerry, also say in the motion a January trial would not give them enough time to prepare, especially given the "unusual and complex" prosecution.

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FBI agent admits deleting emails amid terror probe

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 9:47 AM January 13, 2012

Boston.com on January 12, 2012 released the following:

“By Tom Hays

Associated Press

NEW YORK—An FBI agent testified Thursday that she deleted potentially sensitive emails covering several months when she was helping spearhead an investigation of a terror suspect.

Defense attorneys have sought to examine FBI emails to see if they reveal agents skirted interrogation rules in the case of Mohamed Ibrahim Ahmed, an Eritrean man charged in Manhattan federal court with supporting terrorism.

Ahmed’s lawyers have asked U.S. District Judge P. Kevin Castel to bar statements made by Ahmed while he was detained in Nigeria in 2009 before being turned over to U.S. authorities. The defendant is charged with receiving explosives training, buying an assault rifle and raising money for al-Shabaab, an extremist group in Somalia.

An ongoing suppression hearing in the case has provided insight into how U.S. authorities attempt a balancing act intended to both head off immediate terror threats in the field and preserve evidence for use later in civilian trials.

FBI agent Jennifer Dent was a member of

HEARING

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“Since this trial date was set, the government has produced as part of the discovery process an additional 103,102 pages of material including more than 91,000 e-mails as well as 26 voice mails received by cooperating witnesses between 2007 and 2010,” the motion says. In addition, both the government and Edwards are seeking evidence from North Carolina state courts.

“Absent a continuance, Mr. Edwards’ counsel will not be able to effectively use the evidence the government was obligated to provide him ... and this, in turn, threatens Mr. Edwards’ right to effective counsel and a fair trial,” according to the motion.

“This is not hyperbole. Mr. Edwards’ counsel are experienced trial lawyers and

a so-called “dirty” team that did an initial intelligence-gathering interview of Ahmed without reading him his Miranda rights while he was still in Nigerian custody in December 2009.

“We were very concerned about plots and plans against the United States and national security,” she said.

Details from the initial, three-hour interrogation haven’t been made public. But Dent suggested Ahmed was forthcoming about his “travels to various locations.” She also insisted he was never under duress.

“He was very comfortable and relaxed,” she said.

A second “clean” team assigned to interview Ahmed read him his rights before questioning him so that his responses could be used against him in a federal court, another agent who was on that team has testified.

Dent testified that she followed strict rules prohibiting her from sharing any details from the earlier, un-Mirandized interrogation with fellow agents on the clean team — a precaution against tainting the process. But when asked on cross-examination about email communications from a five-month period at the outset of the FBI investigation, the agent said she had deleted them to deal with a “storage issue.”

“All of the emails are gone,” she said.

they are and have been working hard — long hours, late nights and weekends — and they have not made it their practice to seek unwarranted continuances.”

It is unclear if a decision has been made on whether the trial has been delayed.

A chief issue in the upcoming trial is whether money given to support Edwards’ mistress, Rielle Hunter, by the then-candidate’s benefactors should have been considered campaign donations, a contention Edwards’ team has disputed. They maintain the money was a gift to Hunter.

If convicted on all counts, Edwards could face 30 years in prison and a fine of up to \$1.5 million.”

Pressed by the judge on when she deleted them, she responded, “I have no idea.”

Earlier, a prosecutor had told the judge that FBI computer technicians had been unsuccessful at trying to recover the emails. He directed the FBI to try again and report back to him.

One email previously read into the record suggested agents contemplated how to go forward if Ahmed, also known as Talha, refused to waive his rights to remain silent and have an attorney.

“We’ve planned that in the event that T does not waive his rights, we could continue as another ‘dirty’ interview,” an agent wrote.”

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Executives Facing US Accusations Under FCPA May Be Encouraged to Fight Charges

McNabb Associates, P.C. (Federal Criminal Defense Lawyers)

Submitted at 10:46 AM January 13, 2012

Bloomberg Businessweek on January 13, 2012 released the following:

“(Updates with SEC broker fiduciary rule and Hong Kong ‘professional investor’ in Compliance Policy, French stock-ADRs in Compliance Action, Alliance One in Courts, Keneally and Kerr in Interviews and Vaughan and Kim Hak Heon in Comings and Goings/Notable Passings.)

Jan. 13 (Bloomberg) — Executives facing trial in U.S. courts over accusations of bribing foreign officials may be encouraged to fight charges as prosecutors regroup after two courtroom setbacks and await a verdict in their largest overseas corruption probe targeting individuals.

One of two cases hailed by the government as milestones in its enforcement of the Foreign Corrupt Practices Act was dismissed last year by a judge who said the jury verdict convicting two men at an electricity tower company of bribing Mexican officials was tainted by prosecutor misconduct in “a sloppy, incomplete and notably over-zealous investigation.”

In the first prosecution under the FCPA based on a sting operation, a judge declared a mistrial for four of 22

defendants accused of participating in a fake \$15 million weapons deal involving Gabon. A separate trial is under way for a second group of defendants.

The 2011 outcomes will make individual defendants in FCPA cases more confident in contesting charges. This is so in particular because they may face long prison terms under the plea deals the Justice Department offers, even as corporations continue to self-report and settle, said Philip Urofsky, a former FCPA prosecutor who now defends cases at Shearman & Sterling LLP.

In a crackdown on overseas bribery that started during the Bush administration, the government settled 57 cases against companies from 2005 through 2011 without trial, reaping \$4.1 billion for the U.S. treasury, according to Justice Department data. A push to prosecute more individual defendants during the same period has produced mixed results, with some beating charges outright and others getting less punishment than prosecutors sought.

Laura Sweeney, a spokeswoman for the Justice Department, said the government has had “great success” against individuals since increasing its enforcement actions in 2009.

The 1977 law bars companies or

individuals regulated or based in the U.S. from paying bribes to foreign officials to win business. Foreign companies and nationals also can be prosecuted if their corrupt acts were committed in the U.S.”

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